



BOARD OF APPEALS
Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

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Patrick J. Ward, Clerk

TOWN OF BROOKLINE
BOARD OF APPEALS
CASE NO. 2011-0031

Petitioners, Samuel and Anne Freeh Engel, applied to the Building Commissioner for permission to construct two new shed dormers on the Southeast side of the third floor of their home at 18 Bowker Street. The application was denied and an appeal was taken to this Board.

On May 26, 2011, the Board met and determined that the properties affected were those shown on a schedule in accordance with the certification prepared by the Assessors of the Town of Brookline and approved by the Board of Appeals and fixed June 30, 2011 at 7:15 p.m. in the Selectmen's hearing room as the time and place of a hearing on the appeal. Notice of the hearing was mailed to the Petitioner, to their attorney (if any) of record, to the owners of the properties deemed by the Board to be affected as they appeared on the most recent local tax list, to the Planning Board and to all others required by law. Notice of the hearing was published on June 9 and 16, 2011, in the Brookline Tab, a newspaper published in Brookline. A copy of said notice is as follows:

NOTICE OF HEARING

Pursuant to M.G.L. C. 39, sections 23A & 23B, the Board of Appeals will conduct a public hearing to discuss the following case:

Petitioner: **ENGEL, SAMUEL & FREEH, ANNE**
Owner: **ENGEL, SAMUEL & FREEH, ANNE**

Location of Premises: **18 BOWKER ST**
Date of Hearing: **JUNE 30, 2011**
Time of Hearing: **7:15 p.m.**
Place of Hearing: **Selectmen's Hearing Room, 6th Floor**

A public hearing will be held for a variance and/or special permit from:

1. **5.43; Exceptions to Yard and Setback Regulations, special permit required.**
2. **5.09.2.j; Design Review, special permit required.**
3. **5.22.3.c; Exceptions to Maximum Floor Area Ratio (FAR) Regulations for Residential Units, special permit required.**
4. **5.60; Side Yard Requirements, variance required.**
5. **8.02.2; Alteration or Extension, special permit required.**

Modification as required of BOA Decision #2931 dated 23 January 1989.

of the Zoning By-Law to **ADDITION TO 3RD FLOOR REQUIRING BOA RELIEF at 18 BOWKER STREET.**

Said premise located in a **T-5 (two-family and attached single-family)** residence district.

Hearings, once opened, may be continued by the Chair to a date and time certain. No further notice will be mailed to abutters or advertised in the TAB. Questions regarding whether a hearing has been continued, or the date and time of any hearing may be directed to the Zoning Administrator at 617-734-2134 or check meeting calendar at: <http://calendars.town.brookline.ma.us/MasterTownCalendar/?FormID=158>.

The Town of Brookline does not discriminate on the basis of disability in admission to, access to, or operations of its programs, services or activities. Individuals who need auxiliary aids for effective communication in programs and services of the Town of Brookline are invited to make their needs known to the ADA Coordinator, Stephen Bressler, Town of Brookline, 11 Pierce Street, Brookline, MA 02445. Telephone: (617) 730-2330; TDD (617) 730-2327.

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At the time and place specified in the notice, this Board held a public hearing. Present at the hearing was Chairman, Mark Zuroff and Board Members Christopher Hussey and Lisa Serafin. The case was presented by the petitioner's architect, Mr. Jeffrey Baron of Barron+Associates, 174 Garden Street, Cambridge, MA.

To provide background for the site, the Planning Board report gave a brief history related to zoning.

January 19, 1982, Board of Appeals Decision case #2508 – Board of Appeals denied variances to allow subdivision of lot into two with two units on each lot.

November 18, 1986, Board of Appeals Decision case #2972 – Board of Appeals denied variance relief required to subdivide the lot into two, with a two-family attached dwelling on each 2,000 lot. The applicant appealed to land court and the Massachusetts Superior Court reversed the Board of Appeals decision and the property was subsequently subdivided in 1987.

October 27, 1988, Board of Appeals Decision case #2931 – The Board of Appeals voted to allow the applicant to increase parking to yield one space per unit at 16-18 Bowker Street, which had a single paved parking place with its own curb cut on each side of the front yard. The applicant proposed seven spaces for the four units, which the Board said would have a deleterious effect on the streetscape. The solution also involved maintaining landscaping along the street and reducing the encroachment into the side yard.

Mr. Baron described the property at 18 Bowker Street as a 2 1/2-story attached two-family wood frame home on a 2,000 s.f. lot located between Toxteth and Kent Streets near Brookline Village. The attached homes are on separate, subdivided lots. His clients own both units, #1 and #2, at 18 Bowker Street. The surrounding neighborhood is residential, largely made up of similarly-sized two-family dwellings. Several of these dwellings share common driveways or have two driveways on one lot.

Mr. Baron said that his clients, Samuel and Anne Freeh Engel, are proposing to add another bedroom and bathroom to the upper floor of their residence. The addition would convert three single dormers on the southeast side of their home into a shed dormer with three gables, which would create head room for additional habitable floor area. The new copper clad dormers would be setback 8' from the side yard. The proposal would also involve installation of two new windows on the second floor. The proposed addition would accommodate the applicant's growing family by adding 104 s.f. to the home. Mr. Baron said that because of the additional gross floor area requested, the project was subject to design review. He also said that because the addition of the dormers on the upper floor exacerbated the side set-back non-conformity side yard relief was also required. He said that his clients are

proposing to install new landscaping in the side yard, add a low wrought-iron fence around the garden, and support the dogwood tree as counterbalancing amenities to achieve the requested side yard relief.

Chairmen Zuroff asked whether anyone in attendance wished to speak in favor of or against the proposal. No one rose to speak.

Beth Falkof, planner, delivered the findings of the Planning Board.

Section 5.09.2.j – Design Review: Any exterior addition for which a special permit is requested pursuant to 5.22 to the design review standards listed under Section 5.09.4(a-m). All the conditions have been met, and the most relevant sections of the design review standards are described below:

- a) Preservation of Trees and Landscape: The proposed addition would preserve a dogwood tree.
- b) Relation of Buildings to Environment: The proposed addition is not anticipated to cause shadowing on neighboring buildings as the addition is single-story and the height of the dwelling would remain unchanged. The addition should relate harmoniously to the landscape.
- c) Relation of Buildings to the Form of the Streetscape and Neighborhood: The proposed addition is consistent in style with the existing dwelling as well as with neighboring dwellings.
- d) Open Space: The applicant is proposing to make improvements to the landscaped areas in the side yard.
- e) Circulation: The proposal will retain the existing driveway and is not anticipated to impact circulation.

Section 5.22 – Floor Area Ratio

Section 6.60 – Side Yard Requirements

Dimensional Requirements	Allowed	Existing	Proposed	Finding
Floor Area Ratio	1.50	1.27	1.32	Complies*
(% of allowed)	100%	127%	132%	
Floor Area (s.f.)	3,000	2,540	2,644	
Side Yard Setback	10	7.35	8.0	Special permit**

* Under Section 5.22.3.c, the Board of Appeals may grant a special permit for up to 150% of the permitted gross floor area provided the addition is less than 350 square feet. The applicant is proposing to construct a 104 square foot addition which meets the requirement for a special permit.

** Under Section 5.43, the Board of Appeals may waive yard and setback requirements if a counterbalancing amenity is provided. The applicant is proposing to install new landscaping in the side yard, add a low wrought-iron fence around the garden, and support the dogwood tree as counterbalancing amenities.

Section 8.02.2 – Alteration or Extension

A special permit is required to alter this non-conforming structure.

Modification as required of BOA Decision #2931, dated 27 October 1988

Ms. Falkof said that the Planning Board was supportive of the plan to construct the new shed dormers on 18 Bowker Street and provide additional habitable floor area to the home. The dormer style is in keeping with the home's aesthetic and would not negatively affect the slate roof nor roof lines. The other side of the attached home shares the mirror condition of three existing dormers. The Board believes the proposed landscaping would be an asset to the appearance of the home and have a positive effect on the streetscape. Therefore, the Planning Board recommends approval of the proposal and plans, including the plot plan prepared by AGH Engineering and dated 5/16/11, and the plans and elevations by Jeffrey N. Baron, Registered Architect, Baron&Associates, and dated May 5, 2011, subject to the following conditions:

1. Prior to the issuance of a building permit, final plans and elevations indicating all salient dimensions and materials shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
2. Prior to issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities to the Assistant Director of Regulatory Planning for review and approval.
3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final floor plans and building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

The Chairman then called upon Michael Shepard, Building Commissioner, for the report from the Building Department. Mr. Shepard stated that when he was initially approached by the architect he explained the type of relief necessary for the proposal. He later spoke with his clients and they chose to seek relief rather than downsize the project. Mr. Shepard said that the dormers were attractively designed and as such would complement the neighborhood. He said that the Building Department was supportive of the minimal relief requested as well as the conditions proposed by the Planning Board. Mr. Shepard said the Building Department

would assure compliance with the building code and insure that the addition was constructed in accordance with the subject plans.

The Board, having deliberated on this matter and having considered the foregoing testimony, concluded that it was desirable to grant special permit relief from Sections 5.09.2.i, 5.22.3.c, 5.43 and 8.02.2 of the Town of Brookline Zoning By-Law and made the following specific findings pursuant to Section 9.05 of the Zoning By-Law:

- a. The specific site is an appropriate location for such a use, structure, or condition.
- b. The use as developed will not adversely affect the neighborhood.
- c. There will be no nuisance or serious hazard to vehicles or pedestrians.
- d. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.

Accordingly, the Board voted unanimously to grant the requested relief subject to the following conditions:

- 1. Prior to the issuance of a building permit, final plans and elevations indicating all salient dimensions and materials shall be submitted subject to the review and approval of the Assistant Director of Regulatory Planning.
- 2. Prior to issuance of a building permit, the applicant shall submit a final landscaping plan indicating all counterbalancing amenities to the Assistant Director of Regulatory Planning for review and approval.
- 3. Prior to the issuance of a building permit, the applicant shall submit to the Building Commissioner for review and approval for conformance to the Board of Appeals decision: 1) a final site plan stamped and signed by a registered engineer or land surveyor; 2) final floor plans and building elevations stamped and signed by a registered architect; and 3) evidence that the Board of Appeals decision has been recorded at the Registry of Deeds.

Unanimous Decision of
The Board of Appeals


Mark Zuroff, Chairman

Filing Date: July 8, 2011

A True Copy
ATTEST:



Patrick J. Ward
Clerk, Board of Appeals

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